

REMARKS

Reconsideration of this application and the rejection of claims 1-19 are respectfully requested. Applicants have attempted to address every ground for rejection in the Office Action dated September 8, 2004 and believe the application is now in condition for allowance. The claims have been amended to more clearly describe the present invention.

Claims 7 and 8 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The Examiner contends that the claim 7 limitation “at least one shock-absorbing member is freely slidable in said track” contradicts with the claim 8 limitation “at least one shock-absorbing member is secured to one of said probe assembly.” Applicants submit that claim 7 recites one arrangement of the shock-absorbing member 56, while claim 8 recites another arrangement of the shock-absorbing member. Applicants further submit that because neither claim 7 nor claim 8 depends upon each other, the features in the claims are not contradictory. However, both claims 7 and 8 depend from claim 6, which recites, among other things, that the shock-absorbing member travels with said probe assembly. To the extent that this language contradicts with part of claim 8, the dependency of claim 8 has been amended to claim 5, and claim 7 to claim 4. Therefore, the rejection of claims 7 and 8 under 35 U.S.C. 112 is respectfully traversed.

Claims 1 and 17 stand rejected under 35 U.S.C. 102(b) as being anticipated by Wagdy (U.S. Pat. No. 4,483,473). Wagdy discloses a portable gas-fired fastener-driving tool 10 that includes, among other things, a housing 11, a cylinder 29, a valve sleeve 33, and a probe assembly 50. The tool 10 further includes an annular bumper 40 located in the lower end of the cylinder 29. The bumper 40 serves as a shock absorber for a piston 30, which travels within the cylinder 29 (col. 3, ll. 65-68; FIG. 1).

Separate and distinct from Wagdy, the present invention includes a shock-absorbing member 56 that is located on the outside of a cylinder body 18 for absorbing shock forces generated during combustion and transmitted through the upper probe (FIG. 1). To clarify this distinction, claim 1 has been amended to recite, among other things, “at least one shock absorbing member operationally associated with at least one of said cylinder body and said probe assembly for reducing shock load generated by said tool during combustion and transmitted between said probe assembly and said cylinder body.” As amended, Applicants submit that claim 1 is not anticipated by Wagdy, because the bumper 40 in Wagdy is only associated with the inner chamber of the cylinder 29, and is not disposed in the tool for absorbing shock load as now recited. Therefore, Applicants contend that as amended, claim 1 is patentably distinct from Wagdy, and the rejection of claim 1 under 35 U.S.C. 102(b) is respectfully traversed.

Wagdy also discloses a spring 57 that is located between a lower end of the cylinder body 29 and a lower end of the probe assembly 50. Unlike Wagdy, the spring 74 of the present invention is located between a lower end of the probe assembly 26 and a retaining ring 70 (FIG. 1, p. 10, ll. 7-17). Claim 17 has been amended to describe this distinction, and now recites, among other things, “a single spring disposed between said lower end of said probe assembly and a retaining ring.” Applicants submit that as amended, claim 17 is patentably distinct from Wagdy, and therefore the rejection of claim 17 under 35 U.S.C. 102(b) is respectfully traversed.

To further distinguish the present invention from that disclosed in Wagdy, Applicants have added new claim 20, which recites, among other things, “said probe assembly includes an upper end, and said at least one shock absorbing member is disposed between said upper end of said probe assembly and an associated portion of said cylinder body.” Applicants submit that new claim 20 is patentably distinguishable from Wagdy, because neither the bumper 40 nor the spring 57 in Wagdy are associated with the upper end 60 of the probe assembly 50 (FIG. 1).

Claims 1-15, 17 and 18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Nikolich (U.S. Pat. No. 5,197,646). Nikolich discloses a combustion-powered fastener-driving tool having two coiled springs 110 disposed outside of a cylinder body 30 and an integral interconnecting portion 98 of the upper probe. Each of the springs 110 is configured to be axially compressed

during combustion of the tool between an outer ear 106 and an end flange 102 of an upper probe arm 100.

Unlike the springs 110 in Nikolich, which do not act as shock absorbers during combustion of the tool because they are in a compressed state (FIG. 2), the present invention features a resilient shock absorbing member 56 that is configured to retain its shock absorbing qualities even during combustion of the tool (FIG. 3). To clarify this distinction, claim 1 has been amended to recite, among other things, “at least one shock absorbing member operationally associated with at least one of said cylinder body and said probe assembly for reducing shock load generated by said tool during combustion and transmitted between said probe assembly and said cylinder body.” Applicants submit that as amended, claim 1 is patentably distinct from Nikolich, and therefore the rejection of claims 1-15 under 35 U.S.C. 102(b) is respectfully traversed.

With respect to claims 17-18; Nikolich discloses a spring 110 that is located between a cylinder body and an upper end of a probe assembly (FIG. 2). In contrast to Nikolich, claim 17 of the present invention, as amended, now recites, among other things, “a single spring disposed between said lower end of said probe assembly and a retaining ring.” Therefore, Applicants contend that claim 17, as amended, is patentably distinct from Nikolich.

In addition, Applicants respectfully submit that the Examiner mistakenly construed FIGs. 8-10 as being part of the invention disclosed in Nikolich. However, these figures were only included to describe a prior art

fastener-driving tool. Therefore, the spring 230 in FIGs. 8 and 9 is not a component of the Nikolich invention. In fact, Nikolich specifically teaches away from such a spring by disclosing two coiled springs 110 located between the outside of a cylinder body and an upper end of a probe assembly (FIG. 2).

Applicants further contend, that as amended, claim 17 is separate and distinct from the prior art shown in FIGs. 8-10 of the Nikolich patent. The spring 230 in the prior art is located between a cylinder body 204 and an intermediate section 228 of an upper probe 220 (FIG. 8, col. 3, ll. 40-45). In contrast to the prior art, as amended, claim 17 now recites, among other things, “a single spring disposed between said lower end of said probe assembly and a retaining ring.” The prior art shown in Nikolich neither discloses nor suggests such an arrangement. Instead, the prior art discloses the spring 230 between the upper probe and the cylinder. Therefore, Applicants submit that the rejection of claims 17-18 under 35 U.S.C. 102(b) based on Nikolich is respectfully traversed.

Claims 16 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolich (U.S. Pat. No. 5,197,646). The arguments asserted above traversing Nikolich are reasserted here.

Nikolich does not disclose a spring that is located between a retaining ring and a lower end of a probe assembly, as is recited, among other things, in amended claims 13 and 17 of the present invention. Rather, Nikolich teaches away from using a spring similar to the one disclosed in the present invention, by specifically eliminating the springs used in prior art assemblies (col.

3, ll. 51-55; col. 6, ll. 17-29), which generally included one spring 230 disposed between a cylinder body and a lower end of a probe assembly (FIGs. 8-10). Nikolich does away with the spring utilized in the prior art, and instead includes springs 110, each being located between one of the outer ears 106 and the end flange 102 of an upper end of the upper probe arms 100 (col. 6, ll. 1-11; FIGs. 2 and 4).

As amended, claims 13 and 17 of the present invention, upon which claims 16 and 19 depend, respectively, recite “a single spring located between said lower end of said probe assembly and a retaining ring.” Modifying Nikolich to include the single spring claimed in the present invention would render the assembly in Nikolich unsatisfactory for its intended purpose, and would also require substantial modifications. Nikolich specifically states that its two-spring configuration is advantageous over prior single-spring assemblies (col. 6, ll. 17-29). Modifying Nikolich to include a single spring located between a retaining ring and a lower end of a probe assembly, as recited in amended claims 13 and 17 of the claimed invention, would eliminate these advantages. Therefore, because Nikolich teaches away from the spring configuration recited in the present invention, the rejection of claims 16 and 19 under 35 U.S.C. 103(a) is respectfully traversed.

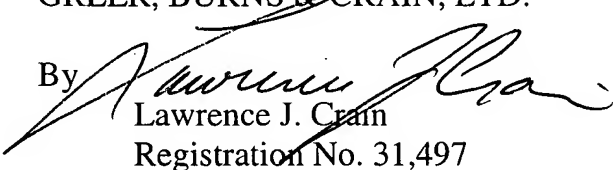
In view of the above amendments, the application is respectfully submitted to be in allowable form. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues

which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below. Correspondence should continue to be directed to Lisa Soltis, attorney of record.

Respectfully submitted,

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